

**EXHIBIT "D"**

#4  
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PT  
11/17  
NJTRP

(E)

(C)

At an IAS Part NJ of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, 360 Adams Street, Brooklyn, New York, on the 24th day of October, 2007

P R E S E N T:

HON. DAVID I. SCHMIDT,

Justice.

ARTHUR A. BOOR and JOANNE BOOR,

STR (m  
phy  
pitt)  
STAY

Plaintiffs,

-against-

BNC MORTGAGE, INC.,

Index No. 8302/05

Defendant.

BNC MORTGAGE, INC.,

KINGS COUNTY CLERK  
FEE PD \$ 40.00  
*for Agreed*

Third-Party Plaintiff,

-against-

JEFFREY ALLI, PARBATI JAIKARAN a/k/a PAUL JACARAIN a/k/a PAUL JAIKARAN, and MATTEO PATISSO d/b/a NEW MILLENNIUM CAPITAL,

Third-Party Defendants.

Upon the annexed Emergency Affirmation of Neil A. Miller, Esq. dated October 24, 2007, the annexed affirmation of Christopher Rosado, Esq. dated October 24, 2007, the exhibits annexed hereto, the affirmation of good faith of Christopher

Rosado, Esq. dated October 24, 2007, and upon all of the

pleadings and proceedings heretofore had herein, it is

ORDERED, that plaintiffs Arthur Boor and Joanne Boor, and third-party defendant Matteo Patisso d/b/a Millennium Capital

show cause before this Court, before the Honorable Justice I

*JAS PARK NJ (RM 541)*

, at the Courthouse <sup>1</sup> located at 360 Adams Street,

→ Brooklyn, New York, on the 7 day of Nov, 2007, at 9:30 a.m., or as soon thereafter as counsel can be heard, why an order should not be entered:

a. Pursuant to pursuant to CPLR 3126, striking the answer of third-party defendant Matteo Patisso d/b/a New Millennium Capital ("New Millennium") as a result of New Millennium's willful failure to provide the documents demanded in third-party plaintiff BNC Mortgage Inc.'s ("BNC") Notice of Discovery and Inspection dated September 21, 2007 (the "Document Demands"); or in the alternative deeming resolved, for purposes of the action, in favor of BNC all issues to which the information sought in the Document Demands relate; or in the alternative prohibiting New Millennium from introducing any evidence in support of its defenses or counterclaims and in opposition to any of BNC's claims;

b. pursuant to CPLR 3212, granting summary judgment against plaintiffs:

1. on BNC's second counterclaim, in the event

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Order to Show Cause Pg 4 of 5  
plaintiffs are successful in this action in invalidating the  
recorded mortgage held by BNC on the real property known as 483  
Berriman Street, Brooklyn, New York, identified on the tax map of  
the City of New York, County of Kings as Block 4454, Lot 52 (the  
"Premises"), declaring that BNC has an equitable lien upon the  
Premises, in the amount of \$26,831.84, plus interest at the rate  
of 9% per annum from February 24, 2004;

2. dismissing the demand in the amended complaint for  
damages, whether compensatory or punitive, and attorney's fees;  
and

c. granting such other and further relief as to the Court  
seems just and proper.

SUFFICIENT CAUSE APPEARING THEREFOR, it is

*STAY*  
JSC  
ORDERED, that pending the hearing ~~and determination~~ of this  
motion, and ~~the further order of the Court, the trial of this~~  
action, presently scheduled for November 13, 2007, is hereby  
stayed; and it is further

*SELECT  
METHOD!*  
ORDERED, that service of a copy of this Order to Show Cause,  
together with the papers upon which it is based, upon Irving  
Levine, Esq., attorney for plaintiffs, at ~~291 Broadway, Suite~~  
~~1100, New York, New York 10007~~, pursuant to CPLR 2103(b)(1), (2),  
(3) or (6), and upon Steven Rosenberg, Esq., attorney for Third-  
Party Defendant Matteo Patisso d/b/a New Millennium Capital, at  
and any other party entitled to notify  
~~142 Mineola Avenue, Suite 3B, Roslyn Heights, New York 11577~~,

*method*  
→ pursuant to CPLR 2103(b)(1), (2), (3) or (6), on or before the  
2 day of NOV, 2007, shall constitute good and  
sufficient service.

E N T E R :

*[Signature]*

J.S.C.

**RON. DAVID J. SCHMIDT**

~~CERTIFICATION PURSUANT TO  
22 NYCRR PART 130-a:~~

~~CHRISTOPHER ROSADO, ESQ.~~